

CH  
1

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2013-0098

**Z.A.P. DATE:** September 3, 2013  
October 3, 2013

**ADDRESS:** 9900 Mandeville Circle

**OWNER/APPLICANT:** Balcones Country Club Membership Association (David Dew)

**AGENT:** Hutson Land Planners (Duane Hutson)

**ZONING FROM:** RR

**TO:** SF-1

**AREA:** 0.7292 acres (31,764 sq. ft.)

### **SUMMARY STAFF RECOMMENDATION:**

The staff's recommendation is to grant SF-1, Single Family Residence-Large Lot District, zoning.

### **ZONING AND PLATTING COMMISSION RECOMMENDATION:**

9/03/13: Postponed to October 1, 2013 at the neighborhood's request (7-0); P. Seeger-1<sup>st</sup>,  
R. McDaniel-2<sup>nd</sup>.

### **DEPARTMENT COMMENTS:**

The property in question is currently undeveloped tract of land. The applicant is requesting a rezoning from RR to SF-1 to construct a single family residence on the property. The staff recommends the applicant's request for SF-1 zoning because the property fronts meets the intent of the SF-1 district and fronts onto a local residential street, Mandeville Circle. The site is located adjacent to existing SF-1 zoning and single family residential uses to the south, east and west.

The applicant agrees with the staff's recommendation.

### **ISSUES:**

On August 22, 2013, members of the neighborhood sent a Warranty Deed document to the staff for our review (Please see Attachment A). The City's Law Department looked at the information and determined that the restrictions set forth in the warranty deed are effectively a restrictive covenant. They stated that the right of enforcement against breach of this restriction was vested in Northwest Travis County MUD No. 2, its successors and assigns. The Northwest Travis County MUD No. 2 was annexed by the City of Austin and the Northwest Travis County MUD No. 2 was dissolved. Therefore, the City would have the right to enforce this restriction. The Law Department also stated that the City is under no obligation to enforce this document. The zoning staff discussed our recommendation for this case again after becoming aware of the warranty deed. The staff decided to maintain our recommendation for SF-1 zoning at this location as the site meets the intent of the Single Family Residence-Large Lot District designation and is consistent with other development and zoning surrounding this tract of land. The applicant is requesting a zoning change from one residential district, RR, to another, SF-1 within an existing single family residential neighborhood. The current RR, Rural Residence District, zoning does not permit a golf course (Outdoor Sports and Recreation) use.

C4  
1/2

The staff received a petition on August 29, 2013 from adjacent property owners who are opposed to any changes to the existing RR zoning on the site (Please see Attachment B-Petition). This petition is valid at 36.86 % and therefore will require an affirmative vote of three-fourths of the members of Council to approve a proposed rezoning.

The excerpt below is from the City of Austin's Land Development Code and explains when the City Council is subject to the three-fourths vote.

**Sec. 25-2-284 REQUIREMENT FOR APPROVAL BY THREE-FOURTHS OF COUNCIL.**

- (A) *The affirmative vote of three-fourths of the members of Council is required to approve a proposed rezoning if:*
- (1) the Land Use Commission recommends denial of an application to rezone property to a planned unit development; or*
  - (2) the proposed rezoning is protested in writing by the owners of not less than 20 percent of the area of land:*
    - (a ) included in the proposed change; or*
    - (b) immediately adjoining the area included in the proposed rezoning and extending 200 feet from the area.*

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	RR	Undeveloped
<i>North</i>	RR	Golf Course
<i>South</i>	SF-1	Single Family Residence
<i>East</i>	SF-1	Single Family Residence
<i>West</i>	SF-1	Single Family Residence

**AREA STUDY:** N/A

**TIA:** Not Required

**WATERSHED:** Bull Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Heritage Tree Foundation  
Austin Monorail Project  
Balcones Village-Spicewood Home Owners Association  
Bike Austin  
Bull Creek Foundation  
Homeless Neighborhood Association  
Long Canyon Homeowners Association  
Long Canyon Phase II & III Homeowner Association Inc.  
SELTEXAS  
Sierra Club, Austin Regional Group  
Super Duper Neighborhood Objectors and Appealers Organization  
The Real Estate Council of Austin, Inc.

CH  
1/3

**CASE HISTORIES:**

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-98-0011 (Hidden Forest: 9907 Anderson Mill Road)	DR to SF-1	3/03/98: Approved SF-1 on consent (7-0)	3/26/98: Approved PC re. of SF-1 (6-0); all 3 readings

**RELATED CASES:** C7L-98-007 (Annexation – December 21, 1998)

**ABUTTING STREETS:**

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Mandeville Cir	50	27	Local	No	No	No

**CITY COUNCIL DATE:** September 26, 2013

**ACTION:**

**ORDINANCE READINGS:** 1st

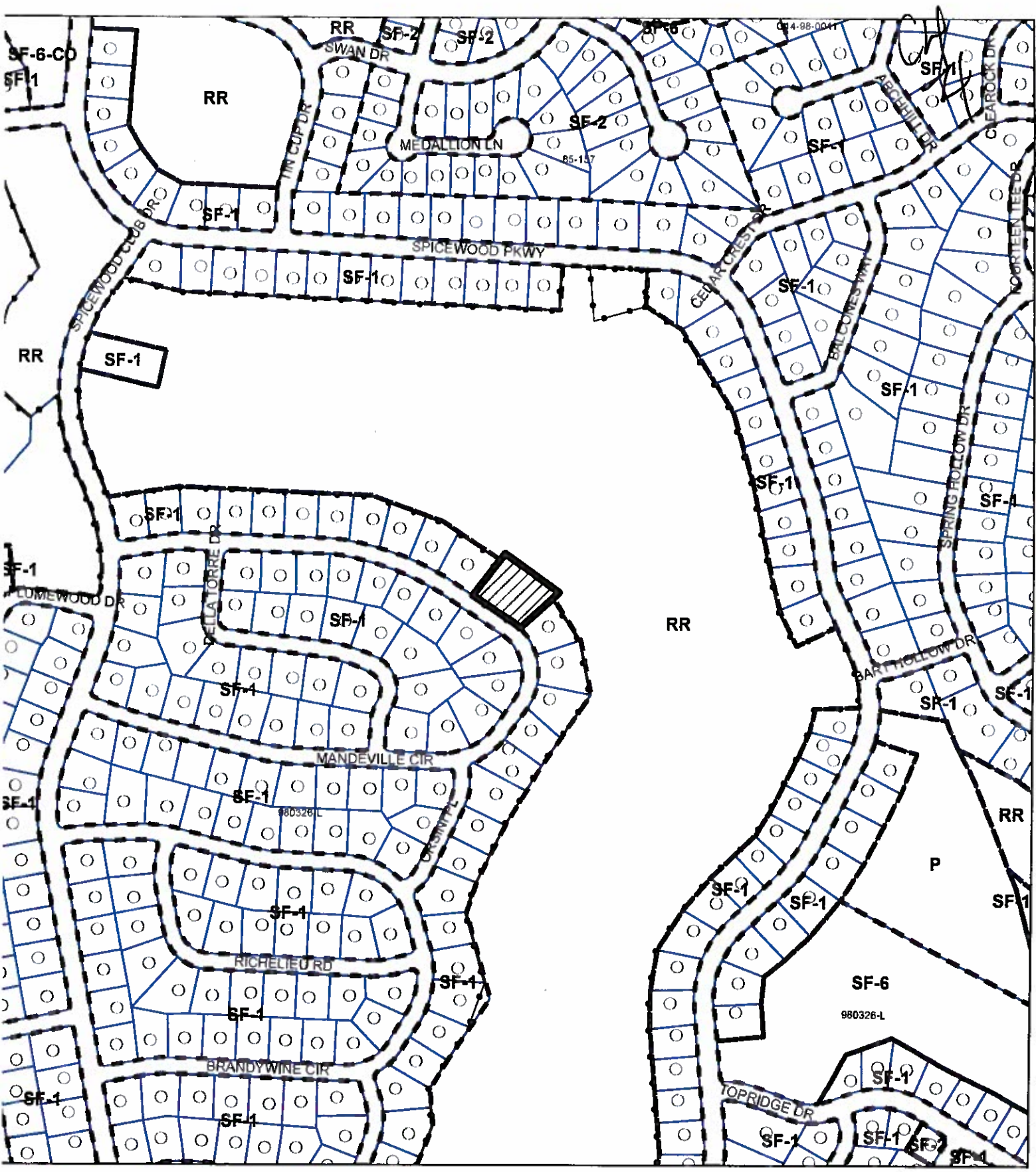
2<sup>nd</sup>





3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Sherri Sirwaitis

**PHONE:** 974-3057,  
[sherri.sirwaitis@ci.austin.tx.us](mailto:sherri.sirwaitis@ci.austin.tx.us)



-  N
-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

**ZONING**  
**CASE#: C14-2013-0098**



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 400'







CH  
6

## STAFF RECOMMENDATION

The staff's recommendation is to grant SF-1, Single Family Residence-Large Lot District, zoning.

## BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

Single-family residence large lot (SF-1) district is the designation for a low density single-family residential use on a lot that is a minimum of 10,000 square feet. An SF-1 district designation may be applied to a use on land with sloping terrain or environmental limitations that preclude standard lot size or to a use in an existing residential development on a lot that is 10,000 square feet or more.

2. *The proposed zoning should promote consistency and orderly planning.*

The proposed zoning promotes consistency and orderly planning because there are existing single family residential uses to the south, east and west of this site. The property in question is located adjacent to SF-1 zoning and fronts onto a local residential street, Mandeville Circle.

## EXISTING CONDITIONS

### Site Characteristics

The site under consideration is currently an undeveloped tract of land. The Balcones Country Club golf course is located to the north. There are single family homes to the south, east and west.

### Comprehensive Planning

RR to SF-1 (Single Family Large Lot)

This zoning case is located on a .72 acre vacant lot on the north side of Mandeville Circle and is not located within the boundaries of a neighborhood planning area. Surrounding land uses includes a golf course to the north, and single family houses to the east, west and south. The developer wants to build a single family house on the property.

### **Imagine Austin**

The site is located over the Edwards Aquifer Recharge Zone, as identified on the Imagine Austin's Environmental Resources Map, found in the Image Austin Comprehensive Plan (IACP). An aquifer contributing zone is an area where runoff from precipitation flows to the recharge zone of an aquifer. Streams in the contributing zone flow downstream into the recharge zone and "contribute" water to the aquifer.

The overall goal of the IACP is to achieve 'complete communities' across Austin, where housing, services, retail, jobs, entertainment, health care, schools, parks, and other daily needs are within a convenient walk or bicycle ride of one another. Page 107 of the IACP states, "While most new development will be absorbed by centers and corridors, development will happen in other areas within the city limits to serve neighborhood needs and create complete communities. Infill development can occur as redevelopment of obsolete office, retail, or residential sites or as new

*development on vacant land within largely developed areas. New commercial, office, larger apartments, and institutional uses such as schools and churches, may also be located in areas outside of centers and corridors. The design of new development should be sensitive to and complement its context. The Growth Concept Map not only guides where Austin may accommodate new residents and jobs but also reflects the community intent to direct growth away from environmentally sensitive areas including, but not limited to, the recharge and contributing zones of the Barton Springs segment of the Edwards Aquifer, and to protect the character of neighborhoods by directing growth to areas identified by small area plans."*

CH  
✓  
X

The following Imagine Austin policies are taken from Chapter 4 of the IACP, which specifically discusses the promotion of a variety of housing types and building over environmentally sensitive lands:

- **LUT P22** Protect Austin's natural resources and environmental systems by limiting land use and transportation development in sensitive environmental areas and preserving areas of open space.
- **CE P2.** Conserve Austin's natural resources systems by limiting development in sensitive environmental areas, including the Edwards Aquifer, its contributing and recharge zones, and endangered species habitat.
- **H P1.** Distribute a variety of housing types throughout the City to expand the choices able to meet the financial and lifestyle needs of Austin's diverse population.

Based on the property being located within the boundaries of an existing residential subdivisions, and the Imagine Austin policies referenced above that supports a variety of housing types throughout Austin, staff believes that the proposed residential use is consistent with the Imagine Austin Comprehensive Plan as long as environmental ordinances are enforced over this environmentally sensitive area.

### **Environmental**

The site is located over the Edwards Aquifer Recharge Zone. The site is in the Bull Creek Watershed of the Colorado River Basin, and is classified as a Water Supply Suburban Watershed by Chapter 25-8 of the City's Land Development Code.

According to flood plain maps, there is no flood plain in or within close proximity of the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Numerous trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

04/8

Under current watershed regulations, development or redevelopment on this site will be subject to providing structural sedimentation and filtration basins with increased capture volume and 2 year detention.

At this time, no information has been provided as to whether this property has any preexisting approvals which would preempt current water quality or Code requirements.

#### **Impervious Cover**

The maximum impervious cover allowed by the SF-1 zoning district would be 40%. However, because the Watershed impervious cover is more restrictive than the GR zoning district's allowable impervious cover, the impervious cover on this site would be limited by the watershed ordinance.

Under the current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Net Site Area</i>	<i>% NSA with Transfers</i>
One or Two Family Residential	30%	40%
Multifamily Residential	40%	55%
Commercial	40%	55%

Note: The most restrictive impervious cover limit applies.

#### **Site Plan**

No site plan comments.

#### **Stormwater Detention**

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in storm water runoff will be mitigated through on-site storm water detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

#### **Transportation**

No additional right-of-way is needed at this time.

A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

Existing Street Characteristics:

Name	ROW	Pavement	Class	Sidewalk?	Bus Route?	Bike Route?
Mandeville Cir	50	27	Local	No	No	No



CH  
/9

### **Water and Wastewater**

The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, utility relocations and or abandonments required by the land use. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility for compliance with City criteria. Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

Attachment A a

WARRANTY DEED

FILM CODE

00005592930

THE STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

KNOW ALL MEN BY THESE PRESENTS:

CH  
10

That ANN COOK McCULLICK ("Grantor"), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid by BALCONES COUNTRY CLUB MEMBERSHIP ASSOCIATION, INC., a Texas non-profit corporation ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto BALCONES COUNTRY CLUB MEMBERSHIP ASSOCIATION, INC., a Texas non-profit corporation ("Grantee"), those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with Grantor's interest in all improvements thereon, and all rights, titles and interests appurtenant thereto:

1. Spicewood Golf Course:

TRACT I: 61.71 acres,  
TRACT II: 83.55 acres, save and except  
TRACT III: .679 and .055 acres, and

Balcones Golf Course:

TRACT IV: 60.31 acres, save and except .08 acres,  
TRACT V: 15.61 acres,  
TRACT VI: 8.98 acres,  
TRACT VII: 6.33 acres,  
TRACT VIII: 5.57 acres, save and except .016 acres,  
TRACT IX: 6.48 acres,  
TRACT X: 13.70 acres, save and except  
TRACT XI: .298 acres, and save and except  
TRACT XII: .552 acres, and save and except  
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof (collectively referred to hereinafter as the "Golf Course Tracts").

2. That certain 7.12 acre tract of real property situated in the County of Travis, State of Texas, as more particularly described on Exhibit "B" attached hereto and incorporated herein by reference;

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12960 0664

Lot 48, Balcones Village Subdivision, situated in the County of Travis, State of Texas; and

Lots 41-46, Block F, Section 10, Balcones Village Subdivision, situated in the County of Travis, Texas;

collectively referred to hereinafter as the "Property."

TO HAVE AND TO HOLD the above-described Property and Golf Course Tracts, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to 'WARRANT AND FOREVER DEFEND all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

Taxes for 1997 and all prior years are assumed by Grantee.

#### Reservations and Exceptions

1. The Property and the Golf Course Tracts are subject to all reservations, covenants, conditions, and restrictions of record, including, by way of example and not in limitation, those restrictions set forth in that certain Warranty Deed dated to be effective as of June 19, 1997 entered into by Northwest Travis County Municipal Utility District No. 2, as Grantor, and Ann C. McCullick, as Grantee.

2. The Golf Course Tracts shall be used in perpetuity for golf and recreational purposes with right of enforcement by injunctive relief against breach of this restriction vested in Northwest Travis County Municipal Utility District No. 2, its successors and assigns.

3. The Golf Course Tracts are subject to an easement held by Northwest Travis County Municipal Utility District No. 2, its successors and assigns, and Technology Hydraulics, Inc. for the free, uninterrupted, and perpetual use of the Golf Course Tracts for irrigation disposal of treated effluent, together with a perpetual easement in favor of the same persons to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace, and remove certain irrigation facilities.

4. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Northwest Travis County Municipal Utility District No. 2 is required to convey to the City of Austin a 20-foot easement across the Golf Course Tracts at a location to be determined by Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc. At the time that the City of Austin requests



CH  
12

such easement, Grantee agrees to convey the easement to the City of Austin.

5. It is expressly understood and agreed by Grantor and Grantee that Grantor has no ownership interest in any of the irrigation facilities located on the Golf Course Tracts and such facilities are not included in this conveyance.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS-WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.

EXECUTED to be effective the 20th day of June, 1997.

ANN COOK MCCULLICK

Ann Cook McCullick  
Ann Cook McCullick

HOAUS1-CORRST777679.2

-3-

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12960 0666

CH  
13  
BALCONES COUNTRY CLUB  
MEMBERSHIP ASSOCIATION, INC., a  
Texas non-profit corporation

By: Guy Michael Berson  
Name: Guy Michael Berson  
Title: President

By: Paul Herlong Wilkinson  
Name: Paul Herlong Wilkinson  
Title: Secretary

M2AUS1-CORBERTT/07679.2

-4-

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12960 0667

FILM CODE  
00005592029

8500  
DM

CH  
14

**WARRANTY DEED**

THE STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§  
§

KNOW ALL MEN BY THESE PRESENTS:

**Recitals:**

A. That Northwest Travis County Municipal Utility District No. 2, a governmental subdivision of the state of Texas, is a municipal utility district operating under the laws set forth in Chapters 49 and 54 of the Texas Water Code;

B. Section 49.226(b) of the Texas Water Code provides that any property dedicated to or acquired by a municipal utility district without expending district funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to the district and without receiving compensation for such abandonment or release;

C. J.H. McCullick donated the property described in Exhibit "A" hereto to the Northwest Travis County Municipal Utility District No. 2 pursuant to that certain Warranty Deed recorded at Volume 8593. Page 442 of the real property records of Travis County, Texas.

D. Ann C. McCullick is the wife and sole heir of J.H. McCullick, who is deceased;

E. After careful deliberation, the Board of Directors of Northwest Travis County Municipal Utility District No. 2 has determined that it is necessary and advantageous for Northwest Travis County Municipal Utility District No. 2 to abandon and release the aforementioned property to Ann C. McCullick, as heir and successor to J.H. McCullick pursuant to the authority set forth in Section 49.226(b) of the Texas Water Code and in accordance with the terms and conditions set forth in this Warranty Deed.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Northwest Travis County Municipal Utility District NO. 2 and Ann C. McCullick hereby agree as follows:

**Conveyance**

That NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2, a political subdivision of the State of Texas ("Grantor"), in abandonment and release, has GRANTED, BARGAINED, SOLD AND CONVEYED, and by these presents does GRANT, BARGAIN, SELL AND CONVEY unto ANN C. McCULLICK ("Grantee"), heir and successor of J. H. McCullick, those certain tracts or parcels of land in Travis County and Williamson County, Texas, together with all of Grantor's rights, title and interest in



CH  
16

improvements (including all structures and fixtures located thereon) and all rights, titles and interests appurtenant thereto (such land, improvements and interests are hereinafter referred to as the "Property") to wit:

**Spicewood Golf Course:**

TRACT I: 61.71 acres,  
TRACT II: 83.55 acres, save and except  
TRACT III: .679 and .055 acres, and

**Balcones Golf Course:**

TRACT IV: 60.31 acres, save and except .08 acres,  
TRACT V: 15.61 acres,  
TRACT VI: 8.98 acres,  
TRACT VII: 6.33 acres,  
TRACT VIII: 5.57 acres, save and except .016 acres,  
TRACT IX: 6.48 acres,  
TRACT X: 13.70 acres, save and except  
TRACT XI: .298 acres, and save and except  
TRACT XII: .552 acres, and save and except  
TRACT XIII: .042 acres.

all as described by metes and bounds on Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the above-described Property, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors and assigns forever.

Grantor does hereby bind itself, its successors and assigns to **WARRANT AND FOREVER DEFEND** all and singular the title to the Property unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

It is expressly understood and agreed by Grantor and Grantee that taxes for 1997 and all prior years are hereby assumed by Grantee. It is further understood and agreed that this Warranty Deed and the abandonment and release of the Property to Grantee shall not impact or relieve Grantor or other parties of their respective obligations under the following agreements: (1) that certain "Irrigation and Maintenance Agreement," dated February 21, 1991, entered into by Balcones Country Club Membership Association, Inc. and Northwest Travis County Municipal Utility District No. 2; and (2) that certain "Wastewater Services and Development Agreement," dated July 1, 1983, entered into by Spicewood Development Corporation, Northwest Travis County Municipal Utility District No. 2, Homer D. Reed, and Luther E. Smith.

C4  
16

**Reservations and Exceptions**

1. The Property shall be used in perpetuity as a golf course with the right of enforcement by injunctive relief against breach of this restriction vested in the Northwest Travis County Municipal Utility District No. 2, its successors and assigns. This covenant shall run with the land.
2. Grantor hereby excludes from the conveyance hereunder and reserves for Grantor and Grantor's successors and assigns and for Technology Hydraulics, Inc., an easement for the free, uninterrupted, and perpetual use of the Property for irrigation disposal of treated wastewater effluent, together with a perpetual easement to construct, reconstruct, use, operate, inspect, repair, maintain, upgrade, replace and remove all irrigation facilities existing as of the date of this conveyance.
3. Grantee acknowledges that pursuant to that certain "Agreement for Wholesale Wastewater Service Between the City of Austin, Northwest Travis County Municipal Utility District No. 2 and Technology Hydraulics, Inc.", Grantor is required to convey to the City of Austin a 20-foot easement across the Property at a location to be determined by Grantor and Technology Hydraulics, Inc. At the time that the City of Austin requests such easement from Grantor, Grantee agrees to convey the easement to the City of Austin.
4. Grantor hereby excludes from the conveyance hereunder all irrigation facilities and equipment located on the Golf Course Tracts.

EXCEPT FOR THE WARRANTY OF TITLE SET FORTH ABOVE, GRANTOR EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY NATURE, KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, REGARDING THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE IMPROVEMENTS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND GRANTEE ACCEPTS SUCH PROPERTY AND IMPROVEMENTS IN AND "AS IS--WHERE IS" CONDITION, WITH ALL FAULTS.

GRANTEE, BY ITS ACCEPTANCE OF THIS DEED EXPRESSLY WAIVES ANY RIGHT OR CLAIM AGAINST GRANTOR FOR DAMAGES, RESCISSION OR OTHER REMEDY AT LAW OR IN EQUITY WITH RESPECT TO OR RESULTING FROM THE PHYSICAL CONDITION OF THE PROPERTY AND THE IMPROVEMENTS THEREON, INCLUDING WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION OF THE PROPERTY. THE WAIVER AND EXCULPATION PROVIDED ABOVE SHALL BE DEEMED TO BE COVENANTS RUNNING WITH THE LAND AND BINDING ON ALL SUCCESSORS AND ASSIGNS OF GRANTEE.

CH  
17

NOTWITHSTANDING THE FOREGOING, IN THE EVENT THAT IT IS EVER DETERMINED BY A COURT OF COMPETENT JURISDICTION THAT THIS CONVEYANCE IS NOT VALID FOR ANY REASON, THEN NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AGREES THAT IT SHALL OFFER THE PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO FOR SALE TO ANN C. MCCULLICK, OR ANY SUCCESSOR OR ASSIGN THEREOF THAT MAY BECOME THE OWNER OF THE PROPERTY, AT ITS FAIR MARKET VALUE. THIS OBLIGATION SHALL BE BINDING UPON NORTHWEST TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 2 AND ITS SUCCESSORS AND ASSIGNS.

EXECUTED to be effective as of the 19th day of June, 1997.

NORTHWEST TRAVIS COUNTY  
MUNICIPAL UTILITY DISTRICT NO. 2

By:

Gary Potts, President

John R. Patten  
Secretary

ANN C. MCCULLICK

By:

Ann C. McCullick



P E T I T I O N

Date: August 28, 2013

File Number: C14-2013-0098

Address of Rezoning Request: 9900 Mandeville Circle

C4  
18

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than RR – Golf Course.

It has been our understanding that the Golf Course properties were to be used for golf or recreational purposes in perpetuity. The land in issue is a part of the Golf Course properties. We believe the applicant in this case intends to develop this land, perhaps constructing a homestead (although a bed and breakfast appears to be a permitted use under the requested SF-1 zoning), which is in direct contravention of our understanding and the decades-old deed restrictions which are currently in place covering and protecting the Golf Course properties from this sort of development.

Rezoning this property to SF-1 is contradictory to the deed restrictions as it allows residential development, which is neither golf nor recreational use. Allowing the rezoning will open the buyer up to potential litigation filed by the beneficiaries of these deed restrictions (current homeowners in the area) down the road. Allowing the re-zoning could be misleading to the buyers and others.

Prior to its abolition by the City of Austin, the Northwest Travis County MUD #2 (MUD) transferred the Golf Course properties, including the land in issue, with a restriction that the transferred properties would be used as a golf course, a restriction it stated would run with the land. The properties were then deeded to the Balcones Country Club Membership Association, with the restriction that the properties be used for golf and recreational purposes.

The City of Austin, per Ordinance dated December 4, 1997, abolished and assumed the obligations of the MUD. The City has the ability, and perhaps the obligation, to enforce the deed restriction, pursuant to its takeover of the MUD. Allowing re-zoning implies that the land can be used for other purposes, which is inconsistent with the restriction the City now holds the right to enforce.

Allowing re-zoning of the land in issue, although it is a small parcel in and of itself, could open the door to broader development of the Golf Course properties, which will be detrimental to the current homeowners in the neighborhood. It is especially troubling to those who have maintained homesteads adjacent to the Golf Course properties, with the assumption that the deed restrictions in place would protect the Golf Course properties from development and protect the investment made in this community.

C4  
19

The Austin Regional Master plan approved by the City at the time of annexation of MUD #2 accepted the foundational covenants and restrictions to prohibit development of this property for any use other than greenway (i.e. golf course) and drainage. Modification of the zoning of this property is thus inconsistent with the community master plan. Should the planning and zoning commission believe that this rezoning is appropriate for its proposed use, it must first modify the master plan to be consistent with their findings. There are important procedural requirements for notification to the surrounding neighborhood for modification of the original covenants and restrictions as there are for modification of the city master plan. These procedural requirements, including notification of the affected parties, and notification of the Texas Commission on Environmental Quality for development actions that may adversely impact stream water flow, stream water quality and significantly impact aquifer recharge have not been adhered to and must be complied with prior to any consideration for rezoning by the Planning and Zoning Commission or the City Council.

An environmental land planner (ELP) expert has reviewed the parcel in question and in his opinion the lot is undevelopable due to its steep slopes and limited set-back area from adjoining property owners and from the fronting street, Mandeville Circle. (If requested, he can provide a LIDAR cross section running along the centerline of the street, and perpendicular to the street along the centerline of the drainage way, illustrating the significant slope across the site as well, and he can possibly also provide cross sections across the lot as the side slopes increase toward the north, the golf course.)

It is also the opinion of the ELP that this lot is undevelopable due to its present and historical set aside as a drainage way for the surrounding neighborhood. Drainage during any significant storm event is currently unable to handle the required design storm events through the drainage way now. (We can provide a photo which was taken on Spicewood Parkway less than 1,000 feet downstream from the lot of interest). Surrounding lots experience flooding, the streets are flooded with water deep enough to close the street to traffic at the intersection of Mandeville Circle and the drainage way at the frontage location of the lot under consideration. If the lot is developed, significant fill will be required both for the building foundation and for the property access road/driveway. Any further restriction of the drainage way, which this filling would produce, would restrict the ability of the drainage way to handle storm water flows, producing additional flooding in the Mandeville Circle and De la Torre streets in the neighborhood immediately adjacent to the drainage way lot.

Clearing of the lot will destroy significant mature trees that are regulated under the City's tree preservation requirements. The filling of the lot will require the removal of the trees and will restrict the drainage way as discussed above, making it impossible for the drainage way to carry the design flood flow requirements. Visual inspection of the area indicates that any development of the lot would reduce the drainage way cross section by more than 50 percent. The drainage way now is limited in its ability to carry design flood flows of any significant storm events.

Removal of the existing vegetation and channel roughness will reduce the ability of the natural stream channel to provide water quality improvement through the retention of sediment and the

C4  
20

absorption of environmental contaminants and nutrients that are present in storm water runoff from the surrounding streets and fertilized lawns. This is an important and critical function for protecting water quality within the Bull Creek Watershed. The Bull Creek Watershed is an important waterway for the City of Austin, and natural grassed and vegetated stream channels provide an efficient method of water quality improvement supported by the Texas Commission on Environmental Quality (TCEQ). Further, the Bull Creek Watershed is an important recharge area for the underlying aquifers, removal of natural waterways increases peak storm water flows, decreases infiltration and recharge to the underlying aquifers and adversely impacts water quality both in the surface streams and in the groundwater aquifers.

Preserving the vitality and critical environmental features in Bull Creek Watershed in this neighborhood is critical. This area is the headwaters of the Bull Creek Watershed, which is the only Edwards Aquifer spring fed creek that supplies part of our drinking water. Rezoning and building on these properties will have an adverse environmental impact to the immediate area and to Bull Creek Watershed. These tracts were specifically and conscientiously preserved for drainage, spring protection, wildlife habitat, and wildlife passage.

These tracts and properties are the habitat for numerous local flora and fauna, especially the Hill Country Rock Squirrels, and the breeding ground for a wide variety of protected birds such as the Red Tail Hawk, the Screech Owl, Horned Owl and possibly many others. There is an abundance of wildlife (deer, red fox, black squirrels, raccoons, skunks, armadillos, opossum, etc.) which breed and pass through these areas. The disturbance of these areas will force these animals out of their habitat and into the neighborhood. Also, the development of the tracts will close and/or inhibit the passages set aside for these animals and require them to pass through the existing homestead properties. With this will also come the coyote predators which will further endanger the pets, children, and homeowners in this community.

Because it is a defined stream channel, it also may be a habitat for protected species including The Barton Springs salamander, the Austin Blind salamander and/or the Jollyville Plateau salamander. No environmental surveys or studies have been done on this lot, and any rezoning or alternate use considerations must first establish that no unique, protected or sensitive ecosystem exists under its present use.

In summary, these tracts were set aside as mandated and agreed upon by the City of Austin when Balcones Country Club, Balcones Village and Spicewood Development Corp. presented the original master development plans to the City of Austin. The Deed Restrictions clearly indicate that these tracts can only be used for recreational and golf course uses (drainage and greenbelt). There is no condition imaginable where anything other than RR zoning is appropriate.

Please deny the zoning change on all 4 of these cases listed below and reaffirm the long standing and correct zoning of RR.

2013-080237 ZC C14-2013-0098, 9900 Mandeville Circle  
2013-080209 ZC C14-2013-0096, 11512 Spicewood Parkway  
2013-080220 ZC C14-2013-0097, 11300 Spicewood Parkway





CH  
/22

## PETITION

Case Number: **C14-2013-0098**

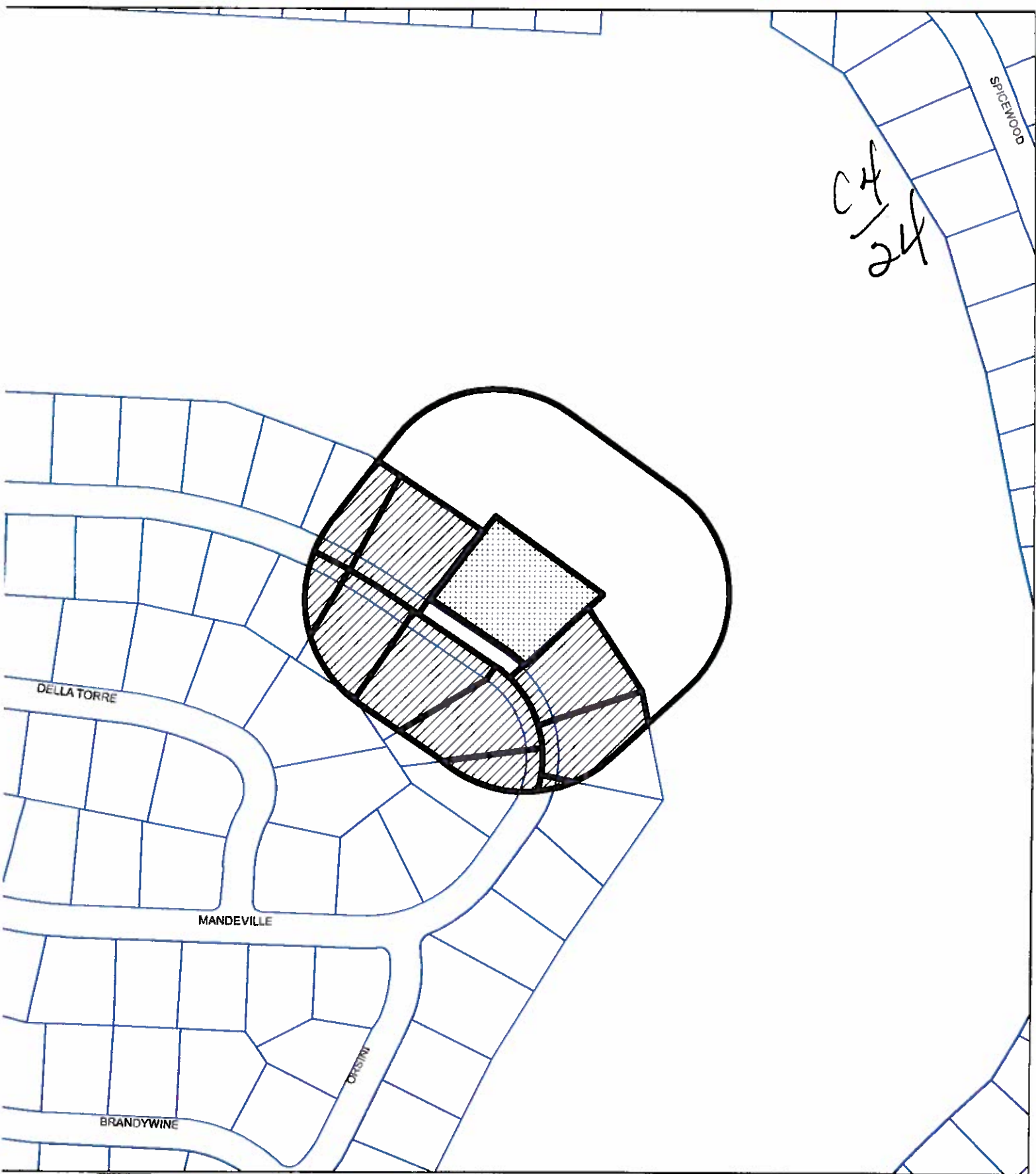
Date: 9/6/2013

Total Square Footage of Buffer:	269884.69
Percentage of Square Footage Owned by Petitioners Within Buffer:	39.03%






Calculation: The total square footage is calculated by taking the sum of the area of all TCAD Parcels with valid signatures including one-half of the adjacent right-of-way that fall within 200 feet of the subject tract. Parcels that do not fall within the 200 foot buffer are not used for calculation. When a parcel intersects the edge of the buffer, only the portion of the parcel that falls within the buffer is used. The area of the buffer does not include the subject tract.





" = 200 '

-  BUFFER
-  PROPERTY\_OWNER
-  SUBJECT\_TRACT

PETITION  
CASE#: C14-2012-0098



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

**Sirwaitis, Sherri**

---

**From:** [REDACTED]  
**Sent:** Wednesday, August 28, 2013 8:32 AM  
**To:** Sirwaitis, Sherri  
**Subject:** Comments: Case Number C14-2013-0098

CH  
25

August 28, 2013

**Case Number: C14-2013-0098**  
**Contact: Sherri Sirwaitis, 512-974-3057**  
**Public Hearing: Sep 3, 2013, Zoning and Platting Commission**  
**Sep 26, 2013, City Council**

**From:** Jerry Moon                      **I object**  
9830 Mandeville Circle  
Austin, Tx 78750  
512 258 4583; 512 851 6420 cell

**Comments:**

I ask that the rezoning be denied as I believe it is completely counter to the intent that the golf course land is to be used for perpetuity as golf and recreation land and the rezoning is illegally breaking a covenant restriction to that effect in the current deed. In my case, the land at 9900 Mandeville was represented to me as greenbelt in a 1972 plat map that was instrumental in my purchase of the adjacent home at 9830 Mandeville.

Further, the rezoning and subsequent development:

- Would result in downgrade of the natural balance, attractiveness, and value of the Spicewood Balcones neighborhood
- Would reduce value of homes that were built/purchased based on the presence of a functioning golf course and greenbelt areas
- Would create watershed issues (i.e. due to excessive slopes and increased impervious cover) that are so severe that development cannot be made to comply with the city Land Development Code

The watershed issue is illustrated by the 9900 Mandeville parcel. It is at the bottom of a dip in the street where the lot slopes greater than 35%. The dip collects runoff from both the north and south legs of Mandeville Circle which slope all the way to Spicewood Club drive. Further, a culvert under the road collects all runoff from Del Torre road which intersects both legs of Mandeville circle. During storms, the water is turbulent, over the curb and with whitecaps. In addition to roadway runoff, the entire lot at 9900 Mandeville is even more excessively sloped. 76% of the lot has greater than 15% slope and 40% has greater than 25% slope. Water has eroded the hillside of the lot and gouged a drainage creek bed at the bottom.

As an example of the impact on affected homeowners, the home at 9830 Mandeville was built in 1976 and we purchased in 1986. We purchased with the full expectation and understanding that the plat of Spicewood at Balcones Village was final, and that the deed covenant and restrictions on the greenbelt land and waterway as well as Spicewood Country Club would continue to be honored to preserve the natural and traditional character of the neighborhood. Now the golf course has been closed, greatly affecting property values, and now forced construction in excessively sloped land further threatens value and the sustained beauty of the neighborhood as well as our property at 9830 Mandeville.



Austin, Tx 78750

**THE**

$$\frac{C4}{2h}$$

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0098

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Veronica Tony

Your Name (please print)

11203 Della Torre Dr

Your address(es) affected by this application

*[Signature]*

Signature

Daytime Telephone: 512-257-0989

Aug 26, 2013

Date

☐ I am in favor  
☒ I object

Comments: -Wildlife protection:

-We currently have major flooding problems during storms. The affected lot acts as a drainage of excess water. Any build up of this natural flood zone will cause issues for other lots, such as mine. I object the rezoning without additional water/drainage planning

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

2715

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0098

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

*Bonnie GRAJAKS*  
Your Name (please print)

*9823 Mandeville Circle*  
Your address(es) affected by this application

*[Signature]*  
Signature

*9/27/13*  
Date

Daytime Telephone: *(512) 350-9155*

Comments: *This lot has steep slopes and limited set-back area - and is used as a drainage way for the surrounding neighborhood. It is filled in, as it would have to be in order to be developed. It would mean that mature trees would need to be removed and the building for the stream channel would no longer function as drainage in the event of a major storm.*

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

*CH*  
*28*

8/27/13  
CJ/g

The original covenants and restrictions prohibit development of this lot for any use other than greenway and drainage. Modification or change of these covenants and restrictions is inconsistent with the community master plan and the overall Austin Regional Master plan approved by the city at the time of annexation. The master plan would have to be modified if the zoning commission believes that this rezoning is appropriate.

This lot, with its numerous trees and rocks, is also home to Rock Squirrels and possibly to protected species like the Barton Springs Salamander, the Austin Blind Salamander and the Jollyville Plateau Salamander.

Thank you for your consideration.

Bonnie Frydles  
9833 Mandeville Cir.  
Austin 78750

C4  
30

**P E T I T I O N**

Date: August 25, 2013

File Number: C14-2013-0098

Address of

Rezoning Request: 9900 Mandeville Circle

To: Austin City Council

We, the undersigned owners of property affected by the requested zoning change described in the referenced file, do hereby protest against any change of the Land Development Code which would zone the property to any classification other than RR – Golf Course.

It has been our understanding that the Golf Course properties were to be used for golf or recreational purposes in perpetuity. The land in issue is a part of the Golf Course properties. We believe the applicant in this case intends to develop this land, perhaps constructing a homestead (although a bed and breakfast appears to be a permitted use under the requested SF-1 zoning), which is in direct contravention of our understanding and the decades-old deed restrictions which are currently in place covering and protecting the Golf Course properties from this sort of development.

Rezoning this property to SF-1 is contradictory to the deed restrictions as it allows residential development, which is neither golf nor recreational use. Allowing the rezoning will open the buyer up to potential litigation filed by the beneficiaries of these deed restrictions (current homeowners in the area) down the road. Allowing the re-zoning could be misleading to the buyers and others.

Prior to its abolition by the City of Austin, the Northwest Travis County MUD #2 (MUD) transferred the Golf Course properties, including the land in issue, with a restriction that the transferred properties would be used as a golf course, a restriction it stated would run with the land. The properties were then deeded to the Balcones Country Club Membership Association, which the restriction that the properties be used for golf and recreational purposes.

The City of Austin, per Ordinance dated December 4, 1997, abolished and assumed the obligations of the MUD. The City has the ability, and perhaps the obligation, to enforce the deed restriction, pursuant to its takeover of the MUD. Allowing re-zoning implies that the land can be used for other purposes, which is inconsistent with the restriction the City now holds the right to enforce.

Allowing re-zoning of the land in issue, although it is a small parcel in and of itself, could open the door to broader development of the Golf Course properties, which will be detrimental to the current homeowners in the neighborhood. It is especially troubling to those who have maintained homesteads adjacent to the Golf Course properties, with the assumption that the deed restrictions in place would protect the Golf Course properties from development and protect the investment made in this community.



04/31

Signature

### Address

Emma Tripp	EMMA TRIPP	9828 Mandeville Circle Austin, TX 78750-2855
------------	------------	---

Contact Name: Buddy E. Tripp

Phone Number: 512-258-0978

August 30, 2013

CH  
32

**Case Number: C14-2013-0098**

**Contact: Sherri Sirwaitis, 512-974-3057**

**Public Hearing: Sep 3, 2013, Zoning and Platting Commission  
Sep 26, 2013, City Council**

From: Jerry Moon                      **I object**  
9830 Mandeville Circle  
Austin, Tx 78750  
512 258 4583; 512 851 6420 cell

**Comments:**

I ask that the rezoning be denied as I believe it is completely counter to the intent that the golf course land is to be used for perpetuity as golf and recreation land and the rezoning is illegally breaking a covenant restriction to that effect in the current deed. In my case, the land at 9900 Mandeville was represented to me as greenbelt in a 1972 plat map that was instrumental in my purchase of the adjacent home at 9830 Mandeville.

Further, the rezoning and subsequent development:

- Would result in downgrade of the natural balance, attractiveness, and value of the Spicewood Balcones neighborhood
- Would reduce value of homes that were built/purchased based on the presence of a functioning golf course and greenbelt areas
- Would create watershed issues (i.e. due to excessive slopes and increased impervious cover) that are so severe that development cannot be made to comply with the city Land Development Code

The watershed issue is illustrated by the 9900 Mandeville parcel. It is at the bottom of a dip in the street where the lot slopes greater than 35%. The dip collects runoff from both the north and south legs of Mandeville Circle which slope all the way to Spicewood Club drive. Further, a culvert under the road collects all runoff from Del Torre road which intersects both legs of Mandeville circle. During storms, the water is turbulent, over the curb and with whitecaps. In addition to roadway runoff, the entire lot at 9900 Mandeville is even more excessively sloped. 76% of the lot has greater than 15% slope and 40% has greater than 25% slope. Water has eroded the hillside of the lot and gouged a drainage creek bed at the bottom.

As support of the impossibilities created by the excessive slopes on 9900 parcel, consider that the Country Club has found that due to excessive slopes it could not comply with watershed requirements based on its original real estate listing, and in an attempt to comply has extended the depth of the parcel for sale by 25 feet. This will not cure the watershed issues. What's more, there is power line above what would now be the heart of the parcel and its easement setback will severely limit the buildable area. Adding to this, the attempt to develop will likely mean excavating and dynamite risks as the contractor positions a foundation as close as possible to the home and swimming pool at 9830 Mandeville.

Related to the watershed issues are the complicating factors that protected and even heritage trees, as well as many other medium size trees are critical to managing runoff. The extensive cuts and fills required to provide a flat surface for any building would not only be impossible at

the outset and out of code, but would soon be washed away by raging rain water. Further, development will destroy the habitat of abundant wildlife on the 9900 Mandeville parcel.

C4  
33

As an example of the impact on affected homeowners, the home at 9830 Mandeville was built in 1976 and we purchased in 1986. We purchased with the full expectation and understanding that the plat of Spicewood at Balcones Village was final, and that the deed covenant and restrictions on the greenbelt land and waterway as well as Spicewood Country Club would continue to be honored to preserve the natural and traditional character of the neighborhood. Now the golf course has been closed, greatly affecting property values, and now forced construction in excessively sloped land further threatens value and the sustained beauty of the neighborhood as well as our property at 9830 Mandeville.



C4  
34

August 29, 2013

Sherrl Sirwaitis  
Planning & Development Dept  
City of Austin, Texas

Dear Ms. Sirwaitis,

This correspondence is being sent in connection with the following rezoning cases in the Balcones/Spicewood neighborhood:

Number C14-2013-0097 for property at 11300 Spicewood Parkway, Austin, TX 78750  
Number C14-2013-0096 for property at 11512 Spicewood Parkway, Austin, TX 78750  
Number C14-2013-0098 for property at 9900 Mandeville Circle, Austin, TX 78750  
Number C14-2013-0095 for property at 9405 Fourteen Tee Drive, Austin, TX 78750

Balcones Club Management LP (Balcones Club) has entered into a 99 year lease with Balcones Country Club Membership Association (BCCMA), the owner of Balcones Country Club and the parcels subject to the action above. Balcones Club is responsible for the successful operations of the Country Club.

We agree to the removal of the parcels identified above from our lease upon their successful sale. The parcel sales will not impact operations at the Country Club and funds generated from these sales will be reinvested into the facility of the Country Club, which will in turn have a positive impact on the community.

Regards,

  
Ken Story  
Partner  
Balcones Club Management LP  
an affiliate of Arnold Palmer Golf Management

5430 LBJ Freeway  
Three Lincoln Centre  
Suite 1400  
Dallas, Texas 75240  
T 972 419 1400  
F 972 419 1450  
[www.centurygolf.com](http://www.centurygolf.com)  
[www.palmergolf.com](http://www.palmergolf.com)

**Sirwaitis, Sherri**

**From:** Traci L. Cotton [REDACTED]  
**Sent:** Tuesday, September 03, 2013 4:02 PM  
**To:** Sirwaitis, Sherri  
**Cc:** [REDACTED]  
**Subject:** Request for postponement/continuance

C4  
35

Hi Sherri -

I understand a request for postponement has been made as to one of the four properties below. As I feel it is more expeditious for these four matters to be heard at one time, I am requesting that the other three cases also be postponed.

Thank you  
Traci Cotton  
10808 Spicewood Parkway  
512/423-1436

4. Rezoning: C14-2013-0095 – 9405 Fourteen Tee Drive  
Location: 9405 Fourteen Tee Drive, Bull Creek Watershed  
Owner/Applicant: Balcones Country Club Membership Association (David Dew)  
Agent: Hutson Land Planners (Duane Hutson)  
Request: RR, I-SF-2 to SF-1  
Staff Rec.: Recommended  
Staff: Sherri Sirwaitis, 512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov); Planning and Development Review Department  
Facilitator: Ivan Naranjo, 512-974-7649  
City Attorney: Jennifer Ferri, 512-974-4732

5. Rezoning: C14-2013-0096 – 11512 Spicewood Parkway  
Location: 11512 Spicewood Parkway, Bull Creek Watershed  
Owner/Applicant: Balcones Country Club Membership Association (David Dew)  
Agent: Hutson Land Planners (Duane Hutson)  
Request: RR to SF-1  
Staff Rec.: Recommended  
Staff: Sherri Sirwaitis, 512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov); Planning and Development Review Department

6. Rezoning: C14-2013-0097 – 11300 Spicewood Parkway  
Location: 11300 Spicewood Parkway, Bull Creek Watershed  
Owner/Applicant: Balcones Country Club Membership Association (David Dew)  
Agent: Hutson Land Planners (Duane Hutson)  
Request: RR to SF-1  
Staff Rec.: Recommended  
Staff: Sherri Sirwaitis, 512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov); Planning and Development Review Department

7. Rezoning: C14-2013-0098 – 9900 Mandeville Circle  
Location: 9900 Mandeville Circle, Bull Creek Watershed  
Owner/Applicant: Balcones Country Club Membership Association (David Dew)  
Agent: Hutson Land Planners (Duane Hutson)  
Request: RR to SF-1



Staff Rec.: Recommended

Staff: Sherri Sirwaitis, 512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov); Planning and Development Review Department

CH  
36

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0098

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Planning Commission

Sep 26, 2013, City Council

*Bob Cotton*  
Your Name (please print)

☐ I am in favor  
☒ I object

*9826 Mandeville Circle Austin*

Your address(es) affected by this application TX 78756

*August 28, 2013*  
Date

Signature

Daytime Telephone: *512-658-4639*

Comments: *This property is part of the WASKATY Ditch between Ann McCollick, Belma & NW Travis County Mnd #2 (New COA) and is to be used for Golf Course & Recreational use only. It is the headwaters of the Bull Creek Watershed and is for water ways to Reduce Flooding. It is also the passage way for various wildlife & protect Bies, Animals, etc. Also, the 25ft extension requested extends further on to the golf and beyond the meeds & bounds of the head joining properties.*

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

*(see attached)* → *37*

**Sirwaitis, Sherri**

---

**From:** Veronika Tonry@amat.com  
**Sent:** Tuesday, September 03, 2013 9:30 AM  
**To:** Sirwaitis, Sherri  
**Subject:** Case #: C14-2013-009B

CH  
38

Hello Ms. Sirwaitis,

I wanted to ensure that you have received my written objection to the re-zoning of 9900 Mandeville Circle. This lot serves as a natural flood zone and provides drainage for the entire Della Torre and Mandeville area due to its sloping. This lot should not be built on without considering the flooding implications.

Best Regards und mit freundlichen Grüßen

Veronika Tonry  
Office Phone: 512-278-6011                      Cell: 512-921-5909  
Privacy Program Manager  
Applied Materials

The content of this message is Applied Materials Confidential. If you are not the intended recipient and have received this message in error, any use or distribution is prohibited. Please notify me immediately by reply e-mail and delete this message from your computer system. Thank You

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0098

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Platting Commission

Sep 26, 2013, City Council

Bruce + Nancy Miller  
Your Name (please print)

9824 Mandeville Circle

Your address(es) affected by this application

Nancy Miller & Bruce Miller 8-27-13

Signature

Date

Daytime Telephone: 512-694-0202

Comments: We strenuously object to this rezoning.

1. The original covenants and restrictions prohibit development of this lot for any use other than greenway and drainage. There is a community Master Plan and a regional overall Austin Regional Master Plan approved by the city at the time of annexation. No procedural requirements have been

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

(OVER)

529/CF

## PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During its public hearing, the board or commission may postpone or continue an application's hearing to a later date, or may evaluate the City staff's recommendation and public input forwarding its own recommendation to the City Council. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice is required.

During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

[www.austintexas.gov](http://www.austintexas.gov)

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0098

Contact: Sherri Sirwaitis, 512-974-3057

Public Hearing: Sep 3, 2013, Zoning and Planning Commission  
Sep 26, 2013, City Council

DONALD G. THORP  
Your Name (please print)

9903 MANDEVILLE CIRCLE

Your address(es) affected by this application

Donald G. Thorp

Signature

8/27/2013  
Date

Daytime Telephone: 512 249-2341

Comments:

SEE ATTACHED 1 PAGE  
WRITTEN COMMENTS and  
3 PICTURES.

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Sherri Sirwaitis

P. O. Box 1088

Austin, TX 78767-8810

CH  
40

Comments

C4/A1

Case Number C14-2013-0098  
Contact: Sherri Sirwaitis  
Public Hearing: Sept 3, 2013, Zoning and Platting Commission

From Donald G. Thorp  
9903 Mandeville Circle  
512 249-2341

**I Object**

Commissioners, I have 2 concerns I would like to express.

First when I was selecting between multiple possible home sites, a major factor was this beautiful natural habitat. The realtors involved, both the selling agent and my buying agent, clearly told me that as part of the Neighborhood Plan for this golf course community, 9900 Mandeville Circle was designated as unbuildable land that was to serve as the natural drainage path for the area around my potential new home, and would remain undisturbed. This favorably influenced my decision to purchase this home.

Now, if this land is disturbed and a structure built on it, it takes away from the value of my property!

Second, is the concern that changes to 9900 Mandeville will exacerbate drainage issues for my property. Today, when even a moderate rain occurs, water rushes down the steep slopes of Mandeville Circle from both the Southeast and the Northwest directions (Picture 1), often overflowing the crest of the roadway. It crashes together and then empties into the spillway (Picture 2), on 9900 Mandeville Circle, continuing on down to the golf course.

Adding to this flow is the additional storm water that comes from both directions of Della Torre, the next street up from Mandeville, which empties into the normally dry creek bed on the East side of my property. This creek bed becomes a cascading series of waterfalls, which is then channeled into the 3' concrete drain that runs under Mandeville Circle, exiting right next to the spillway on 9900 Mandeville Circle. When a storm is heavy or lasts long enough, the water in this creek bed is contending for space with that coming down Mandeville Circle and begins to back up into my yard (Picture 3). It has at times come to within a few feet of my house. Even a small amount of restriction to the downstream flow of the water at 9900 Mandeville, will surely cause the creek to overflow further, causing erosion and debris removal damage to my property.

I invest my time to keep the creek as unobstructed as possible to minimize the flooding and erosion. I also clean up the debris that collects on the street to try to avoid damage to my neighbor's vehicles. I do not wish to see more of this occur because downstream drainage has been restricted.

Thank you for your attention.



8/27/2013





C4  
A2

PICTURE # 1









CH  
44

#3



**Sirwaitis, Sherri**

---

**From:** Amber Orr <counsel\_idmph@yahoo.com>  
**Sent:** Tuesday, September 03, 2013 5:35 PM  
**To:** Sirwaitis, Sherri  
**Cc:** Me; Stephen Gershon  
**Subject:** Fwd: Case No c14-2013-0098

C4  
45

Begin forwarded message:

**From:** Amber Orr <counsel\_idmph@yahoo.com>  
**Date:** September 3, 2013 5:30:15 PM CDT  
**To:** Me <counsel\_idmph@yahoo.com>  
**Subject:** Case No

Case Number: C14-2013-0098  
Contact: Sherri Sirwaitis, [512-974-3057](tel:512-974-3057)  
Public Hearing: September 3, 2013, Zoning and Planning Commission

From: Amber Orr  
9901 Mandeville Circle  
Austin, Texas 78750

I OBJECT

Amber Orr  
September 3, 2013  
[\(415\) 336-8261](tel:415-336-8261)

Dear Commissioners,

I object to the rezoning of the parcels on the Spicewood and Balcones golf courses. Specifically, I am objecting to the rezoning of the lot directly across the street from me, 9900 Mandeville Circle, for the following reasons:

1.  
The land is subject to a warranty deed that it must be reserved solely for use as a golf course and related water and utility easements.
2.  
Rezoning is against the original plan and intent for our planned community as evidenced in original plats, warranty deeds and a visual inspection of our community.
3.  
We relied on such deeds and easement in the purchase of our home and rezoning this lot not only impacts the value of our home but may physically threaten our home related to potential, flooding, and erosion.

As you are all keenly aware, land use planning is often effected through the use of covenants to facilitate the creation of particular types of neighborhoods. Courts enforce such covenants provided they benefit and burden all the property owners in a neighborhood equally and the intentional planning and execution of the Spicewood Village at Balcones is a fine example of a planned development intended to enhance preservation of the natural environment while providing beauty, recreation and above average property values.

CH  
46

Covenants that run with the land located at 9900 cannot be separated from the land nor the land transferred without it. Such a covenant exists if the original owner as well as each successive owner of the property is either subject to its burden or entitled to its benefit. When selling the land, the owner can only do so upon an agreement by the buyer that he or she, too, will only use the land according to the covenant, in this case, for use as the golf course. The land is thereby burdened or encumbered since the covenant specifically limits the use to which the land can be put.

Our neighborhood was distinctly developed to provide for environmental preservation and protection including many modern ideas relating to air quality, water quality, trees, buffer zones and greenbelt areas, critical environmental features, waterways, and topography. Zoning for the land in our planned community is zoned appropriately and intentionally and the land use should remain consistent with applicable neighborhood plans, neighborhood conservation and compatibility with adjacent property and land use. This wooded lot zoned RR for recreational use is a longstanding buffer and is crucial to the proper drainage of rainwater and the neighborhood ecology. There is no reason to consider rezoning this land as it is required to be used as golf course and rezoning it opens the door to permanently impact our environment and beloved community.

In addition to aesthetics and fresh air, the damage to our property values may be tangible. Our lot sits directly across from 9900 Mandeville and on our lot is a drywater storm creek that becomes a powerful drainage way with any rain at all. The water collected from the higher part of the neighborhood runs beside our home and across and under the street into 9900. When there is blockage, the waters rise and threaten our property along with our direct neighbors. The water erodes the land that our house sits on and cuts in closer and closer. When we considered the purchase of this property, we loved the wooded lot across the street and considered it an added value to the home. Additionally, we were concerned about the creek bed and drainage strategy and required our realtor to pull the deeds and investigate the status of the lot at 9900. The language appears in documents related to the neighborhood and planned community that the covenants run with the land and are intended to exist in perpetuity. This meant that any concerns we had related to the use of the wooded lot at 9900 Mandeville were limited to the use of such land for it's current use as part of the golf course and current easements since we knew that water and power lines and utilities run through that lot.

We were reassured that the land belonged to the golf course and that it was required by deed in perpetuity to be used as such. The lot has been maintained as it was intended and stood unaltered since building began for our community over 40 years ago. We bought on reliance that the drainage system had been historically adequate and that aside from any alterations for maintenance of the gold course, we could feel comfortable that there would not be any development of the land to threaten our property value.

As a personal appeal, I implore you to consider that there is no compelling reason to approve rezoning the lot at 9900. It is a crucial part of our community that can never be recovered once it is lost. I think the sale and request for rezoning might not be legal given the history of the development and the promises made to our community. The neighbors and the association have a

duty to maintain and protect our neighborhood and this action is a clear and permanent departure from those goals that will impact my family and my neighbors negatively for as long as we stay in our homes. We sit on our porch and enjoy the fox, skunks, armadillos, possum, strange dual colored hybrid squirrels, deer and even snakes that take refuge and have made their homes for forty years in those old trees. Please deny this request on the basis of questionable standing/legality, potential impact on drainage and flooding and irrevocably harming our community through development inconsistent with the intended plan and benefits of our community.

Sincerely,  
Amber Orr

CH  
4X

September 25, 2013  
11604 Jamieson Drive  
Austin, Texas 78750-2544

C4/48

Austin City Council  
301 W. Second St.  
Austin, Texas 78701

RE: Case Numbers C14-2013-0095, C14-2013-0096, C14-2013-0097, C14-2013-0098

Dear Council Members:

I would like to make a few comments and provide some background information regarding the referenced case numbers.

Just for clarification, my name is Tom Manning, and I have lived in the Balcones Village/Spicewood area for a little over 30 years. I was President of the Northwest Travis Municipal Utility District (MUD) #2 for about 9 years, and was in that office at the time that the developer of the area, who also owned the golf course property as well as the country club facilities, divested themselves of the property. I, along with Jack Firth, representing the Balcones Country Club, and Jim McCullick, representing Spicewood Development Corporation, were the ones that negotiated, agreed to, and signed the paperwork that transferred ownership of the golf course property to the MUD, and the ownership of the country club facilities (buildings, pools, tennis courts, etc.) to BCC.

When the land was initially platted for the various sections, and the 2 golf courses, there was property that was not platted, but neither was it a part of the playable golf courses. This property was retained by the developer. Some of this land was not usable as lots because back then, we did not have city sewer, and the homes needed drainage fields, to accommodate their individual cesspools, which could not be built on the property; some of the land was left open for drainage reasons, and some of the land was left open, along with the 36 playable holes, to meet requirements from the state to handle the distribution of gray water from the private sewage treatment plant that served the homes in the Spicewood section and the sewage treatment plant owned by the MUD. All of the property that was not platted was lumped together and title for that property was transferred to the MUD.

Back when the transfer happened in the early 90's, the area was not in the city of Austin, but annexation was anticipated. When we drafted the documents to cover the transfer, we wanted to make sure that the MUD had adequate surface ground area to meet the state requirements for the gray water distribution, and we also wanted to protect the golf course property for BCC, because with the annexation, the city of Austin would obtain ownership of all of the MUD facilities and property, and could choose to stop using the sewage treatment facilities and MUD property for gray water distribution, and decide to make some other use of the property. For that reason, a clause was included that tied the use of the land to serve as both gray water distribution and golf course recreational activity.

Since that time, a number of things have happened:

1) The city of Austin did annex the entire area, but prior to the annexation, the MUD was able to transfer ownership of the property that it had to BCC, so protecting the use of the property as a golf course for BCC is no longer an issue. BCC is in the best position to determine the need and what to do with the property.

2) The city of Austin has now provided sewage service to the entire area, so some of the property that previously could not be used as lots because of drain field issues, can now be built on.

3) The city of Austin has taken over operation of both the private sewage system and the MUD system, and as anticipated many years ago, has chosen to no longer use the golf course for distribution of the gray water. As a result, the need to protect surface area to use for that purpose is gone.

C4  
49

Keeping BCC a viable entity is important to keeping our neighborhood an attractive place to live. The BCC Board would like to make some improvements to the BCC facilities, and have decided that they can raise funds to do this by selling off some property that is not needed. Some concerns have been raised regarding the protection clauses associated with the deed.

Provided that the primary focus is consistent with the intent of the protection clauses of retaining the 36 holes of golf, tennis, swimming, and clubhouse facilities, disposition of unneeded property by platting and selling lots with deed restrictions matching the ones that currently apply to the neighborhood should not be an issue. Our neighborhood is one of single family dwellings, and conversion of property to single family homes is the most desirable use of this unneeded property. All of this property needs to be re-zoned, and if there are issues such as size or drainage associated with individual lots, that should be sorted out in the zoning process.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas W. Manning", with a stylized, flowing script.

Thomas W. Manning